

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 133 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

-----

VITTHALBHAI JOITARAM PATEL

Versus

BACHUBHAI SAKALCHAND MODI

-----

Appearance:

PARTY-IN-PERSON for Petitioner

NOTICE SERVED for Respondent No. 1

-----

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 09/03/2000

ORAL JUDGEMENT

Rule.

Respondent Bachubhai Sankalchand Modi appears in person and waives service of notice of Rule.

2. Vithalbhai Joitaram Patel- the petitioner is also present in the court.

3 With the consent of the parties this Civil Revision Application is taken up for hearing today.

4. The petitioner is the original defendant against whom the respondent-plaintiff has filed HRP Suit No.2634 of 1987 in the Court of Small Causes at Ahmedabad. Aforesaid suit was filed for getting possession of the suit premises. In the said suit present petitioner-defendant Vithalbhai Joitaram Patel gave an application exh.219 before the Court of Small Causes at Ahmedabad stating that he has given a list of documents and for proving the said documents, it is necessary for him to lead further evidence. The Trial Court has passed an order below exh.219 on 27.1.2000 giving opportunity to the petitioner-defendant to lead evidence on payment of costs of Rs. 1000/- to the respondent-plaintiff which was ordered to be paid on or before 31.1.2000. Aforesaid order is impugned in this Revision Application.

5. At the time of hearing of this Revision Application, respondent Bachubhai Sankalchand Modi makes a statement that if the said HRP Suit No. 2634 of 1987 is ordered to be expedited, then he has no objection for setting aside the order for payment of costs. He has also submitted a purshis to that effect which is kept on record. The petitioner herein has also pointed out that he is in precarious financial condition and it is very difficult for him to arrange for payment of cost of Rs. 1000/-.

6. In the facts and circumstances of the case, I set aside the order so far as the payment of costs of Rs.1000/- is concerned. The effect of the same would be that the Application exh. 219 is allowed without payment of any costs. Accordingly the petitioner-defendant is at liberty to lead his evidence as per order of the Trial Court without payment of costs to the respondent-plaintiff and to that extent this Revision Application requires to allowed.

7. It is submitted by the respondent plaintiff that the suit is of the year 1987 and the same may be ordered to be disposed of as early as possible. In the facts and circumstances of the case, it is directed that the HRP Suit No. 2634 of 1987 should be disposed of as expeditiously as possible and preferably before 30.6.2000. Accordingly this Revision Application is

allowed to the aforesaid extent. Interim relief granted earlier stands vacated. Rule is made absolute to the aforesaid extent. No order as to costs.

Direct Service

(P.B.Majmudar.J)

govindan